

**UNITED STATES DISTRICT COURT
FOR THE
MIDDLE DISTRICT OF PENNSYLVANIA**

BONNIE ABRAHAM,

Plaintiff

V.

OMNI CREDIT SERVICES OF
FLORIDA, INC.,

Defendant

Case No.:

COMPLAINT AND DEMAND FOR JURY TRIAL

(Unlawful Debt Collection Practices)

COMPLAINT

BONNIE ABRAHAM (“Plaintiff”), by and through her attorneys, KIMMEL & SILVERMAN, P.C., alleges the following against OMNI CREDIT SERVICES OF FLORIDA, INC. (“Defendant”):

INTRODUCTION

1. Plaintiff's Complaint is based on the Fair Debt Collection Practices Act, 15 U.S.C. § 1692 *et seq.* ("FDCPA")

JURISDICTION AND VENUE

2. Jurisdiction of this court arises pursuant to 15 U.S.C. § 1692k(d), which states that such actions may be brought and heard before “any appropriate United States district court without regard to the amount in controversy,” and 28

1 U.S.C. § 1331 grants this court original jurisdiction of all civil actions arising
2 under the laws of the United States.

3 3. Defendant conducts business in the Commonwealth of Pennsylvania;
4 therefore, personal jurisdiction is established.

5 4. Venue is proper pursuant to 28 U.S.C. § 1391(b)(2).

6
7 **PARTIES**

8 5. Plaintiff is a natural person residing in Honesdale, Pennsylvania,
9 18431, at the time of the alleged harassment.

10 6. Plaintiff is a “consumer” as that term is defined in 15 U.S.C.
11 §1692a(3).

12 7. Defendant is a debt collection company with its principal office
13 located at 4710 Eisenhower Boulevard, Suite B3, Tampa, FL 33634.

14 8. Defendant is a “debt collector” as that term is defined by 15 U.S.C. §
15 1692a(6), and repeatedly contacted Plaintiff in an attempt to collect a debt.

16 9. Defendant acted through its agents, employees, officers, members,
17 directors, heirs, successors, assigns, principals, trustees, sureties, subrogees,
18 representatives, and insurers.

19
20 **FACTUAL ALLEGATIONS**

21 14. At all relevant times, Defendant was attempting to collect an alleged
22 consumer debt from Plaintiff.

1 15. The alleged debt at issue arose out of transactions, which were
2 primarily for personal, family, or household purposes.

3 16. Plaintiff never incurred any debt in connection with a business or
4 commercial activities, and therefore, the debt, if truly owed by her could have only
5 arisen from a financial obligation for primarily personal, family or household
6 purposes.
7

8 17. Beginning in January 2013, and continuing through February 2013,
9 Defendant repeatedly and continuously contacted Plaintiff on her home telephone
10 seeking and demanding payment of a consumer debt.
11

12 18. During the relevant period, Defendant called Plaintiff, on average, one
13 (1) to four (4) times a day.
14

15 19. Most recently, Defendant called Plaintiff four (4) times on February
16 11, 2013.
17

18 20. Upon information and belief, Defendant called Plaintiff on a repetitive
19 and continuous basis with the intent to harass Plaintiff into paying the alleged debt.
20

21 21. Additionally, during one of the parties' conversations, Plaintiff told
22 Defendant that she was unable to pay because she was unemployed and instructed
23 Defendant to stop calling her.

24 22. In response, Defendant's collector stated that it did not care that
25 Plaintiff was unemployed and threatened to keep calling her until she paid the debt.

1 23. Defendant did in fact continue to call Plaintiff on a repetitive and
2 continuous basis after she instructed them to stop calling.

3 24. Finally, on at least one occasion, in response to Defendant's constant
4 collection calls, Plaintiff hung up on Defendant only for Defendant to call her back
5 immediately.
6

7 25. When calling Plaintiff immediately back after she had hung up on
8 them, Defendant had the intent to annoy, abuse and harass her, as it knew or should
9 have known that its collection calls were unwanted.
10

11 **DEFENDANT VIOLATED THE FAIR DEBT COLLECTION**
12 **PRACTICES ACT**

13 26. In its actions to collect a disputed debt, Defendant violated the
14 FDCPA in one or more of the following ways:

15 **COUNT I**
16

- 17 a. A debt collector violates §1692d of the FDCPA by engaging in
18 conduct the natural consequence of which is to harass, oppress, or
19 abuse any person in connection with the collection of a debt.
20
21 b. A debt collector violates §1692d(5) of the FDCPA by causing a
22 telephone to ring or engaging any person in telephone
23 conversation repeatedly or continuously with intent to annoy,
24 abuse, or harass any person at the called number.
25

1 c. Here, Defendant violated §§1692d and 1692d(5) of the FDCPA by
2 repeatedly contacting Plaintiff one (1) to four (4) times a day, even
3 after she requested that it stop, with the intent to annoy, abuse or
4 harass Plaintiff.
5

6 **COUNT II**

7 27. Defendant's conduct, as detailed in the preceding paragraphs, violated
8 15 U.S.C. §1692f.
9

10 a. A debt collector violates §1692f of the FDCPA by using unfair and
11 unconscionable means to collect or attempt to collect any debt.
12

13 b. Here, Defendant violated §1692f of the FDCPA by using unfair
14 and unconscionable means to collect or attempt to collect a debt,
15 including relentlessly contacting Plaintiff despite having been told
16 that its calls were unwanted and calling her immediately back after
17 Plaintiff had disconnected the call.
18

19 **PRAYER FOR RELIEF**

20 WHEREFORE, Plaintiff, BONNIE ABRAHAM, respectfully prays for a
21 judgment as follows:
22

- 23 a. All actual damages suffered pursuant to 15 U.S.C. § 1692k(a)(1);
24 b. Statutory damages of \$1,000.00 for the violation of the FDCPA
25 pursuant to 15 U.S.C. § 1692k(a)(2)(A);

- 1 c. All reasonable attorneys' fees, witness fees, court costs and other
2 litigation costs incurred by Plaintiff pursuant to 15 U.S.C. §
3 1693k(a)(3); and
4
5 d. Any other relief deemed appropriate by this Honorable Court.

6 **DEMAND FOR JURY TRIAL**

7 PLEASE TAKE NOTICE that Plaintiff, BONNIE ABRAHAM, demands a
8 jury trial in this case.
9

10 RESPECTFULLY SUBMITTED,

11 DATED: 04/03/2013

KIMMEL & SILVERMAN, P.C.

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